

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 5418 of 1998****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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BORSAD TOBACCO MERCHANTS' ASSO & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR BS PATEL for Petitioner(s) : 1 - 2.MRS RANJAN B PATEL for
Petitioner(s) : 1 - 2.
MR DA DESAI, ASSISTANT GOVERNMENT PLEADER for Respondent(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

Heard learned counsel for the petitioners and learned counsel for the State.

2. By this writ application, the petitioners seek to challenge the competence of the State Government in levying market fee on sale of tobacco in the market area. In the matter of ITC Limited V. Agricultural Produce Market Committee and others, 2002 (9) SCC 232, the Supreme Court has observed that the State Legislatures are competent to enact legislation providing for the levy and collection of a market fee on the sale of tobacco in a market area. The Apex Court further held that the Markets Acts enacted by the States are valid. In view of the authoritative pronouncement by the Apex Court, we must hold that the State Government is competent in providing levy on sale of tobacco in the market area. The petition deserves to be and is accordingly dismissed. No costs. Interim relief if any, is vacated. Consequently, Civil Application No.12238 of 1999 is also dismissed.

(R.S.GARG, J.)

(M.R.SHAH, J.)

shekhar/-